

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**SUPERSEDING PETITION FOR WARRANT OR SUMMONS FOR
OFFENDER UNDER SUPERVISION**

Offender Name: Juan ESPINOZA-MENDIOLA

Docket Number: 2:02CR00091-01

Offender Address: Sacramento County Jail

Social Security No.: None

Judicial Officer: Honorable Kimberly J. Mueller
United States Magistrate Judge
Sacramento, California

Original Sentence Date: 04/10/2002

Original Offense: Count 1: 8 USC 1325(a) - Illegal Entry By an Alien
Count 2: 18 USC 1028(a)(6) - Possession of Falsely Made United States Identification Card

Original Sentence: Count 1: 6 months BOP; \$10 Special Assessment
Count 2: 12 months BOP; concurrent; 1 year supervised release; \$25 Special Assessment

Special Conditions: If deported, defendant shall not return without consent of the United States Attorney General; upon any re-entry, defendant shall report to the United States Probation Office within 72 hours.

Other Court Action:

12/18/2003: Original Petition filed alleging re-entry into the United States Illegally.

Type of Supervision: Supervised Release

Supervision Commenced: 02/20/2003

Assistant U.S. Attorney: Michael M. Beckwith **Telephone:** (916) 554-2700

Defense Attorney: Linda C. Harter **Telephone:** (916) 498-5700

FILED

SEP 26 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____

RE: **Juan ESPINOZA-MENDIOLA**
Docket Number: 2:02CR00091-01
SUPERSEDING PETITION FOR WARRANT OR SUMMONS FOR
OFFENDER UNDER SUPERVISION

PETITIONING THE COURT

[X] **OTHER:** Vacate Form 12C Petition/Warrant Request filed on December 18, 2003, and recall warrant pursuant to U.S. v. Vargas-Amaya, 389 F.3d 901, 2004, WL 2650821 (9th Cir 2004).

The probation officer alleges the offender has violated the following condition(s) of supervision:

Charge Number Nature of Violation

Charge 1: RE-ENTER THE UNITED STATES WITHOUT PERMISSION/NEW LAW VIOLATION

On February 11, 2004, the defendant pled guilty to a violation of 8 USC 1325 - Illegal Entry in the Southern District of California (Docket No. 03CR3378), in violation of special condition number one.

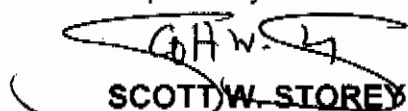
Justification: This petition supersedes the original petition filed in this matter on December 18, 2003, in order to address issues raised in U.S. v. Vargas-Amaya. Additionally, Charge 1 has been amended to reflect a violation of a special condition pursuant to U.S. v. Ortuno-Higareda.

Shortly after Mr. Espinoza-Mendiola was released from federal custody for Possession of a Falsely Made United States Identification Card and Illegal Entry by an Alien, he returned illegally to the United States. On November 16, 2003, the defendant admitted to Border Patrol Agents he was a citizen of Mexico illegally in the United States without any immigration documents. He had previously been deported on March 18, 2003. On February 11, 2004, the defendant pled guilty to Illegal Entry and was sentenced to 24 months imprisonment to be followed by a 1 year term of supervised release.

Bail/Detention: The defendant was detained at his initial appearance on September ^{SWS}16, 2005, and continued detention of the releasee pending further court hearings is recommended because he is considered a flight risk due to his illegal status in the United States.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,


SCOTT W. STOREY
United States Probation Officer
Telephone: (916) 930-4319

DATED: September 22, 2005
 Sacramento, California
 SWS/cp

RE: **Juan ESPINOZA-MENDIOLA**
Docket Number: 2:02CR00091-01
SUPERSEDING PETITION FOR WARRANT OR SUMMONS FOR
OFFENDER UNDER SUPERVISION

Reviewed by: *Karen A. Meusling for KAJM*
KAREN A. MEUSLING
Supervising United States Probation Officer

THE COURT ORDERS:

☐ The Issuance of a warrant. ☐ Bail set at \$ _____ ☐ No Bail

☐ The Issuance of a summons (copy to Defense Counsel).

☒ Other: Vacate Form 12C Petition/Warrant Request filed on December 18, 2003, and recall warrant pursuant to U.S. v. **Vargas-Amaya**, 389 F.3d 901, 2004 WL 2650821 (9th Cir. 2004).

9/23/05
Date

[Signature]
Signature of Judicial Officer

cc: **United States Probation**
Michael M. Beckwith, Assistant United States Attorney
United States Marshal

Attachment: PSR (Sacramento only)

**STATEMENT OF EVIDENCE OF ALLEGED
SUPERVISED RELEASE VIOLATIONS**

Honorable Kimberly J. Mueller
United States Magistrate Judge
Sacramento, California

RE: Juan ESPINOZA-MENDIOLA
Docket Number: 2:02CR00091-01

Your Honor:

In addition to a copy of the Judgment and Commitment Order, the following evidence and/or testimony will be offered to support the probation officer's allegation that the above-named releasee is in violation of the conditions of supervision as stated on the attached Probation Form 12c - Petition for Warrant or Summons For Offender Under Supervision.

Charge 1: RE-ENTER UNITED STATES WITHOUT PERMISSION/NEW LAW VIOLATION


A. Evidence:

Judgement and Commitment Order in Docket Number 03CR3378 out of the Southern District of California.

B. Witnesses:

None.

Respectfully submitted,


SCOTT W. STOREY
United States Probation Officer

DATED: September 22, 2005
Sacramento, California
SWS/cp

REVIEWED BY: 
KAREN A. MEUSLING
Supervising United States Probation Officer

REVOCATION GUIDE - SUPERVISED RELEASE

Offender Name: Juan ESPINOZA-MENDIOLA

Docket Number: 2:02CR00091-01

Date of original offense: July 15, 2001

Original term of supervised release imposed: 1 year.

Highest grade of violation alleged: Grade B

Criminal History Category of offender: VI

Chapter 7 range of imprisonment: 12 months (statutory maximum)

Maximum term on revocation - 18 USC 3583(e)(3): *(choose one below)*

Class A felony - 5 years (or stat max of years if longer).

Class B felony - 3 years

Class C and/or D felony - 2 years

☒ Class E felony and misdemeanors: 1 year

Violation requires mandatory revocation: YES: NO: ☒

Original offense committed after 09/13/94: Court may sentence up to the statutory maximum term of supervised release applicable to the original offense of conviction, but not exceed the maximum for the classes of offenses noted above. Court must consider but is not bound by Chapter 7 ranges. Upon revocation, the court may re-impose supervised release; however, the term is limited to the statutory maximum authorized under Title 18 USC 3583(e)(3) for the original offense of conviction, less the term of imprisonment imposed upon revocation.

SWS/cp